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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,907	12/10/2003	Katherine C. Wheeler	KCX-702 (18958)	6892
22827	7590	10/31/2005	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/732,907	Applicant(s) WHEELER ET AL.	
	Examiner Paula L. Craig	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-15 and 17-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-15 and 17-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment and Arguments

1. With respect to the objection to the drawings; the objections to Claims 5 and 18; and the rejections under 35 U.S.C. 112, second paragraph of Claims 13, 18, and 26, and to Claim 1 for the phrase "generally over the surface"; Applicant's amendment filed October 3, 2005, has been fully considered and is persuasive. The objections and rejections indicated have been withdrawn. As to the rejection of under 35 U.S.C. 112, second paragraph for the phrase "generally the entire surface area", this rejection is maintained for the same reasons as previously stated in the Office Action mailed July 11, 2005.

2. The rejections under 35 USC 103(a) of Claims 2, 3, and 16 are withdrawn as moot, due to the cancellation of these claims. As to the rejection of Claims 1, 4-15, and 17-27 under 35 USC 103, Applicant's arguments filed October 3, 2005 have been fully considered but they are not persuasive.

3. In response to applicant's argument that the EP '209 publication fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wings which are not integral and are separate from each other; and each wing has several possible positions for attachment to the garment facing side of the absorbent article, in at least some of which positions the wings differ in their spacing from each other in a transverse and a longitudinal direction, as compared to their spacing in other positions) are not recited in the rejected claims. As indicated in the

Office Action mailed July 11, 2005, "variably positionable on and removably attachable to the entirety of the garment facing side" does not claim any particular structure, while 35 USC 112, 6th paragraph, has not been invoked. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. In addition to the above, the following new ground of rejection is made. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0143311 A1 to Brisebois in view of U.S. Patent No. 5,300,058 to Goulait et al.

5. For Claim 1, Brisebois shows an absorbent article for placement in the crotch region of an undergarment, having a generally liquid permeable top cover, a generally liquid impermeable baffle, and an absorbent structure disposed between the top cover and the baffle (Figs. 1, 6, and 7, paragraphs 1, 50-52, 70, 77, 80, 88). The article has a pair of wings, each said wing removably attachable to a garment facing side of the absorbent article, the wings including laterally extending flap portions having dimensions so as to at least partially encircle the crotch portion of the undergarment (the wings are panty liners 20; see Figs. 6 and 7, and paragraphs 86-88).

6. Brisebois does not teach the garment facing side of the absorbent article comprising hook material, nor the body facing side of the wings comprising hook material. Brisebois does not expressly teach each wing being variably positionable and removably attachable; however, as indicated in the previous Office Action, the phrase "each said wing is variably positionable on and removably attachable to the entirety of the garment facing side of the absorbent article" does not claim any particular structure.

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Goulait teaches a pattern of hook material on the garment facing sides of the absorbent article and the wings for attachment to an undergarment, as stated in the previous Office Action (Figs. 1, 2, 3, 3A, 3B, 7, 7A, and 7B). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the absorbent article of Brisebois to make the wings positionable anywhere on the garment facing side of the absorbent article; to have generally the entire surface area of the garment facing sides of the absorbent article and the wings present an overall pattern of hook material for attachment to the undergarment; to position the hook material on the garment facing sides of the absorbent article and the wings, and the hook compatible material on the body facing side of the wings. Doing so would enable the user to have a more secure attachment and more flexibility in positioning and attachment, as taught by Goulait.

7. Applicant's amendment and arguments necessitated the new ground of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571)272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

